

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ANTHONY RAPP and C.D.,

Plaintiffs,

-against-

KEVIN SPACEY FOWLER a/k/a KEVIN SPACEY,

Defendant.

Case No. 20-cv-09586 (LAK) (SDA)

JOINT PRETRIAL ORDER

Plaintiff Anthony Rapp (“Plaintiff” or “Mr. Rapp”) and Defendant Kevin Spacey Fowler (“defendant” or “Mr. Fowler”), respectfully submit this Joint Pretrial Order pursuant to Rule 26(a)(3) of the Federal Rules of Civil Procedure and this Court’s individual practices and procedures.

I. Nature of the Case

A. Plaintiff’s Proposed Statement Of The Case

This is an action for personal injuries brought by the plaintiff, Anthony Rapp, who alleges that the defendant, Kevin Spacey Fowler, improperly and without consent, touched Mr. Rapp in a sexual manner, when Mr. Rapp was 14 years old. As a result, Mr. Rapp suffered psychological damages, for which he seeks an award for past and future mental and emotional suffering, as well as punitive damages.

Mr. Fowler denies Mr. Rapp’s allegations and asserts they are false. Mr. Fowler denies Mr. Rapp attended a party at Mr. Fowler’s apartment and denies the 1986 apartment had a bedroom. Mr. Fowler denies he assaulted Mr. Rapp. Mr. Fowler requests that the jury reject Mr. Rapp’s claims and find he is entitled to no damages.

B. Defendant's Proposed Statement Of The Case

Plaintiff Anthony Rapp ("Mr. Rapp") alleges Defendant Kevin Spacey Fowler ("Mr. Fowler") assaulted him in 1986 in a bedroom at Mr. Fowler's apartment during a party. Mr. Rapp seeks damages for the psychological injuries he claims to have suffered.

Mr. Fowler denies Mr. Rapp's allegations and asserts they are entirely false. Mr. Rapp did not attend a party at Mr. Fowler's apartment. Mr. Fowler's 1986 apartment did not have a bedroom. And Mr. Fowler never assaulted Mr. Rapp. Mr. Fowler requests that the jury reject Mr. Rapp's claims and find he is entitled to no damages.

II. Jury/Non-Jury

Plaintiff and Defendant both request the action be tried by jury. The parties estimate that the trial will take 2 weeks or less.

III. Stipulated Facts

1. Anthony Rapp was performing in Precious Sons, on Broadway, in 1986
2. Kevin Spacey Fowler was performing in Long Day's Journey Into Night, on Broadway, in 1986
3. Anthony Rapp was 14 years old in 1986
4. Kevin Spacey was 26 years old in 1986

IV. Exhibits**A. Plaintiff's Exhibits**

The following is a list of Plaintiff's Exhibits to be offered in his case-in-chief:

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
PX. 1	The Advocate article (Previously marked as Exhibit 12 on 2-3-21)	Hearsay (FRE 801, 802)	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
PX. 2	Anthony Rapp's sketch of apartment 2-3-2021 (Previously marked as Exhibit 26 on 2-3-21)		Yes	Yes
PX. 3	Excerpt from John Barrowman's book "Anything Goes" (Previously marked as Exhibit 47)	Hearsay (FRE 801, 802); authenticity/foundation (FRE 900); incomplete excerpt (FRE 106)	No	No
PX. 4	Andy Holtzman sketch of office 1-7-2022 (Previously marked as Exhibit 128 on 1-7-22)	Relevance (FRE 401); Confuses the issues, undue consumption of time (FRE 403)	Yes	No
PX. 5	Justin Dawes' Email to Adam Vary - Buzzfeed 10-31-2017 (Previously marked as Exhibit 143 2-10-2022)	Hearsay (FRE 801, 802); relevance (FRE 401); confuses the issues, misleads the jury, undue consumption of time (FRE 403)	Yes	No
PX. 6	Kevin Spacey's Email 1 to Evan Lowenstein 10-29-2017 (Previously marked as Exhibit 166 on 1-17-22)	Confuses the issues, unfairly prejudicial, and misleads the jury (FRE 403); rule of completeness (FRE 106)	Yes	No
PX. 7	Kevin Spacey's Email: "A dream . . ." to Evan Lowenstein 2-2-2018 (Previously marked as Exhibit 167 on 1-17-22)		Yes	Yes
PX. 8	Kevin Spacey's Email 2 to Nicola Howson & Evan Lowenstein 10-29-2017	Confuses the issues, unfairly prejudicial, and misleads the jury (FRE 403); Rule of completeness (FRE 106)	Yes	No
PX. 9	Kevin Spacey's Email 3 to Nicola Howson & Evan Lowenstein 10-29-2017	Cumulative, confuses the issues, unfairly prejudicial, and misleads the jury (FRE 403); rule of completeness (FRE 106)	Yes	No
PX. 10	Kevin Spacey's Email 4 to Nicola Howson & Evan Lowenstein 10-29-2017	Cumulative, confuses the issues, unfairly prejudicial, misleads the jury (FRE 403); rule of completeness (FRE 106)	Yes	No
PX. 11	Kevin Spacey's Email 5 to Nicola Howson & Evan Lowenstein 10-29-2017	Cumulative, confuses the issues, unfairly prejudicial, and misleads the jury (FRE	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
		403); rule of completeness (FRE 106)		
PX. 12	Kevin Spacey's Email 6 to Nicola Howson & Evan Lowenstein 10-29-2017	Cumulative, confuses the issues, unfairly prejudicial, misleads the jury (FRE 403); rule of completeness (FRE 106)	Yes	No
PX. 13	Kevin Spacey's Email 7 to Staci Wolfe, Todd Rubenstein, Nicola Howson, John Houseman & Bryan Freedman 10-29-2017	Cumulative, confuses the issues, unfairly prejudicial, and misleads the jury (FRE 403); rule of completeness (FRE 106)	Yes	No
PX. 14	Letter from John Barrowman to Kevin Spacey		Yes	Yes
PX. 15	Staci Wolfe Forwarding Adam Vary's 10-29-17 e-mail sent to Staci Wolfe to Evan Lowenstein, Todd Rubenstein & Nicola Howson	Redaction necessary to remove unrelated allegation	Yes	Yes (with redaction)
PX. 16	Kevin Spacey Twitter Statement 10-30-2017		Yes	Yes
PX. 17	Kevin Spacey's Deposition 1-17-2022 - 1 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 18	Kevin Spacey's Deposition 1-17-2022 - 2 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 19	Kevin Spacey's Deposition 1-17-2022 - 3 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 20	Kevin Spacey's Deposition 1-17-2022 - 4 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 21	Kevin Spacey's Deposition 1-17-2022 - 5 of 17.mp4	The deposition included objectionable, irrelevant, and	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
		unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.		
PX. 22	Kevin Spacey's Deposition 1-17-2022 - 6 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 23	Kevin Spacey's Deposition 1-17-2022 - 7 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 24	Kevin Spacey's Deposition 1-17-2022 - 8 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 25	Kevin Spacey's Deposition 1-17-2022 - 9 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 26	Kevin Spacey's Deposition 1-17-2022 - 10 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 27	Kevin Spacey's Deposition 1-17-2022 - 11 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 28	Kevin Spacey's Deposition 1-17-2022 - 12 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 29	Kevin Spacey's Deposition 1-17-2022 - 13 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
PX. 30	Kevin Spacey's Deposition 1-17-2022 - 14 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 31	Kevin Spacey's Deposition 1-17-2022 - 15 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 32	Kevin Spacey's Deposition 1-17-2022 - 16 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 33	Kevin Spacey's Deposition 1-17-2022 - 17 of 17.mp4	The deposition included objectionable, irrelevant, and unfairly prejudicial matters. Mr. Fowler reserves the right to object at trial.	Yes	No
PX. 34	Pictures of Anthony Rapp in Precious Sons 1986		Yes	Yes
PX. 35	Picture of Anthony Rapp 1986	Cumulative (FRE 403)	Yes	No
PX. 36	Texts between Anthony Rapp and Christopher Denny 2017	Hearsay (FRE 801, 802), unfairly prejudicial	Yes	No
PX. 37	Texts between Anthony Rapp and Christopher Hart 10-21-2018	Hearsay (FRE 801, 802), relevance (FRE 401), Unfairly prejudicial discussion of rumors and unrelated allegations, confuses the issues, misleads the jury (FRE 403)	Yes	No
PX. 38	BuzzFeed News - Actor Anthony Rapp: Kevin Spacey Made A Sexual Advance Toward Me When I Was 14 10-29-2017	Hearsay (FRE 801, 802), includes irrelevant and unfairly prejudicial matters that must be redacted (FRE 403)	Yes	No (without significant redactions)
PX. 39	Photographs of Justin Dawes	Relevance (FRE 401); Confuses the issues, misleads the jury, undue consumption of time (FRE 403)	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
PX. 40	Psychological Testing by Lisa Rocchio, Ph.D. 2-6-2021	Hearsay (FRE 801, 802), unfairly prejudicial, undue consumption of time, misleads the jury (FRE 403)	Yes	No
PX. 41	Alexander Sasha Bardey, PhD Zoom Evaluation of Anthony Rapp 3-26-2021.mp4	Hearsay (FRE 801, 802); undue consumption of time, confuses the issues (FRE 403)	Yes	No
PX. 42	Alexander Sasha Bardey, PhD Zoom Evaluation of Anthony Rapp 3-26-2021.mp4	Hearsay (FRE 801, 802); undue consumption of time, confuses the issues (FRE 403)	Yes	No
PX. 43	Robin Magid's Medical Records	Hearsay (FRE 801, 802); Foundation/authenticity (FRE 900); misleads the jury, confuses the issues, unfairly prejudicial, undue consumption of time (FRE 403); improper opinion of lay witness who is admittedly unqualified to offer expert opinion (FRE 701, 702)	No	No
PX. 44	Sean Snow Deposition 8-6-2021	See objections to deposition designations	Yes	No
PX. 45	Justin Dawes' Deposition 12-28-2021 - 1 of 6.mp4	Relevance (FRE 401); unfairly prejudicial, misleads the jury, confuses the issues, undue consumption of time (FRE 403); <i>see also</i> objections to transcript designations and Mr. Fowler's motion to exclude Mr. Dawes's testimony.	Yes	No
PX. 46	Justin Dawes' Deposition 12-28-2021 - 2 of 6.mp4	Relevance (FRE 401); unfairly prejudicial, misleads the jury, confuses the issues, undue consumption of time (FRE 403); <i>see also</i> objections to transcript designations and Mr. Fowler's motion to exclude Mr. Dawes's testimony.	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
PX. 47	Justin Dawes' Deposition 12-28-2021 - 3 of 6.mp4	Relevance (FRE 401); unfairly prejudicial, misleads the jury, confuses the issues, undue consumption of time (FRE 403); see also objections to transcript designations and Mr. Fowler's motion to exclude Mr. Dawes's testimony.	Yes	No
PX. 48	Justin Dawes' Deposition 12-28-2021 - 4 of 6.mp4	Relevance (FRE 401); unfairly prejudicial, misleads the jury, confuses the issues, undue consumption of time (FRE 403); see also objections to transcript designations and Mr. Fowler's motion to exclude Mr. Dawes's testimony.	Yes	No
PX. 49	Justin Dawes' Deposition 12-28-2021 - 5 of 6.mp4	Relevance (FRE 401); unfairly prejudicial, misleads the jury, confuses the issues, undue consumption of time (FRE 403); see also objections to transcript designations and Mr. Fowler's motion to exclude Mr. Dawes's testimony.	Yes	No
PX. 50	Justin Dawes' Deposition 12-28-2021 - 6 of 6.mp4	Relevance (FRE 401); unfairly prejudicial, misleads the jury, confuses the issues, undue consumption of time (FRE 403); see also objections to transcript designations and Mr. Fowler's motion to exclude Mr. Dawes's testimony.	Yes	No
PX. 51	Alexander Sasha Bardey, M.D. Invoice 6-8-2021		Yes	Yes
PX. 52	Alexander Sasha Bardey, M.D. Invoice 1-24-2022		Yes	Yes
PX. 53	Curriculum Vitae - Lisa Marie Rocchio Ph.D.	Undue consumption of time (FRE 403)	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
PX. 54	Expert Report - Elizabeth Loftus Ph.D. 7-12-2021	Mr. Fowler reserves the right to object to this exhibit on the following grounds: relevance (FRE 401); confuses the issues, misleads the jury, and undue consumption of time (FRE 403); hearsay (FRE 801, 802)	Yes	No
PX. 55	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 1 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 56	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 2 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
		deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.		
PX. 57	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 3 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 58	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 4 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
PX. 59	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 5 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 60	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 6 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 61	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 7 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
		mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.		
PX. 62	Elizabeth Loftus Ph.D Deposition 12-22-2021 - 8 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 63	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 1 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
		hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.		
PX. 64	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 2 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 65	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 3 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
		deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.		
PX. 66	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 4 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 67	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 5 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
PX. 68	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 6 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 69	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 7 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.	Yes	No
PX. 70	Alexander Sasha Bardey, M.D. Deposition 1-26-2022 - 8 of 8.mp4	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and	Yes	No

<u>Ex. No.</u>	<u>Document Description</u>	<u>Defendant's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibilit y</u>
		mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). Counsel has failed to designate the transcript and has not identified any specific portion of the deposition for admission. Mr. Fowler, therefore, also reserves the right to object pursuant to FRE 106.		
PX. 71	Kathe Green 1-31-2022 Deposition - 1 of 2.mpg	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). See also Defendant's objections to Plaintiff's counter-designations.	Yes	No
PX. 72	Kathe Green 1-31-2022 Deposition - 2 of 2.mpg	The exhibit includes matters that are irrelevant (FRE 401); misleading, would cause undue consumption of time, confuse the issues, and mislead the jury (FRE 403); numerous questions were improper and argumentative; and the exhibit contains extensive inadmissible hearsay (FRE 801, 802). See also Defendant's objections to Plaintiff's counter-designations.	Yes	No

B. Defendant's Exhibits

The following is a list of Defendant's Exhibits to be offered in his case-in-chief:

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Plaintiff's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
DX. 1	Diagram of Mr. Fowler's New York Apartment in 1986 (KF 90)	Plaintiff reserves the right to object to this exhibit subject to authentication of the document itself and the measurement data therein, at the time of trial. FRE 801,802.	No	No
DX. 2	Photo of Mr. Fowler's New York Apartment in 1986 (KF 91)	Plaintiff reserves the right to object to this exhibit subject to authentication at the time of trial.	No	No
DX. 3	Precious Sons, A Play in Two Acts, by George Furth (KF 272)	Plaintiff reserves the right to object to this exhibit subject to relevance, cumulative, hearsay.	No	No
DX. 4	Letter from John Barrowman to Mr. Fowler (KF 443)		Yes	Yes
DX. 5	Photo of Mr. Fowler's New York Apartment in 1986 (angled towards the bathroom) (KF 544)	Plaintiff reserves the right to object to this exhibit subject to authentication at the time of trial.	No	No
DX. 6	Photo of Mr. Fowler's New York Apartment in 1986 (angled towards the living room) (KF 545)	Plaintiff reserves the right to object to this exhibit subject to authentication at the time of trial.	No	No
DX. 7	Diagram of Mr. Fowler's New York Apartment in 1986 (KF 546)	Plaintiff reserves the right to object to this exhibit subject to authentication of the document itself and the measurement data therein, at the time of trial. FRE 801,802.	No	No
DX. 8	Nov. 14, 1986 New York Apartment Lease (265 East 66th Street) (KF 570)	Plaintiff reserves the right to object to this exhibit subject to authentication, relevance, hearsay at the time of trial.	No	No
DX. 9	Nov. 24, 1985 Letter to Sarah St. George from Kevin Spacey on Hotel Bristol Stationary (KF 571)	Plaintiff reserves the right to object to this exhibit subject to authentication, relevance, and hearsay at the time of trial.	No	No
DX. 10	Jan. 24, 1986 Handwritten note re loans to Mr. Fowler (KF 572)	Plaintiff reserves the right to object to this exhibit subject to	No	No

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Plaintiff's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
		authentication, relevance, and hearsay at the time of trial.		
DX. 11	Image of John Barrowman – 1 (KF 573)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 12	Image of John Barrowman – 2 (KF 574)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 13	Image of John Barrowman – 3 (KF 575)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 14	Image of John Barrowman – 4 (KF 576)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 15	Image of John Barrowman – 5 (KF 577)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 16	Image of John Barrowman – 6 (KF 578)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 17	Image of John Barrowman – 7 (KF 579)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 18	Image of John Barrowman – 8 (KF 580)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 19	Image of John Barrowman – 9 (KF 581)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 20	Image of John Barrowman – 10 (KF 582)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Plaintiff's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
DX. 21	Image of John Barrowman – 11 (KF 583)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 22	Image of John Barrowman – 12 (KF 584)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 23	Image of John Barrowman – 13 (KF 585)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 24	Letter/Postcard to Kevin Spacey (addressed to 265 E. 66th Street Apartment) (KF 204)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 25	Envelop to Kevin Spacey (addressed to 265 E. 66th Street Apartment) (KF 205)	Plaintiff reserves the right to object to this exhibit subject to authentication and relevance at the time of trial.	No	No
DX. 26	Anthony Rapp and Adam Vary Text - 1 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Objection as to "In talking this over with my editors..." as hearsay. Plaintiff reserves the right to further object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 27	Anthony Rapp and Adam Vary Text – 2 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 28	Anthony Rapp and Adam Vary Text – 3 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 29	Anthony Rapp and Adam Vary Text – 4 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 30	Anthony Rapp and Adam Vary Text – 5 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Plaintiff's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
DX. 31	Anthony Rapp and Adam Vary Text – 6 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 32	Anthony Rapp and Adam Vary Text – 7 [Pages from <i>Depo. Ex. 103</i> , marked at the Dec. 16, 2021 Deposition of Adam Vary]	Plaintiff reserves the right to object to this exhibit subject to complete context (FRE 106), hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 33	Excerpt from "Anything Goes" by Anthony Rapp	Plaintiff objects to this exhibit as hearsay, lack of foundation, lack of authentication	No	No
DX. 34	Dr. Elizabeth Loftus's Curriculum Vitae	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 35	Dr. Alexander Bardey's Curriculum Vitae [Marked as <i>Depo. Ex. 168</i> , marked at the Jan. 26, 2022 Deposition of Dr. Alexander Bardey]	Plaintiff reserves the right to object to this document on hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 36	June 7, 2021 Report Re Forensic Psychiatric Evaluation of Anthony Rapp by Dr. Bardey	Plaintiff reserves the right to object to this exhibit subject to hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 37	Video 1 of 2 of Anthony Rapp's Evaluation over Zoom (KSF_EXPERT005085)	Plaintiff reserves the right to object to this exhibit on hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 38	Video 2 of 2 of Anthony Rapp's Evaluation over Zoom (KSF_EXPERT005086)	Plaintiff reserves the right to object to this exhibit on hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 39	Video of Feb. 3, 2021 Deposition of Anthony Rapp	Plaintiff reserves the right to object to this exhibit on hearsay and relevancy grounds at the time of trial.	Yes	No
DX. 40	Text History between Anthony Rapp and Erin Quill [Marked as <i>Depo. Ex. 41</i> at the Apr. 29, 2021 Deposition of Erin Quill]	Plaintiff reserves the right to object to this exhibit on hearsay and relevancy grounds at the time of trial.	Yes	No

<u>Exhibit No.</u>	<u>Document Description</u>	<u>Plaintiff's Objections</u>	<u>Stipulations to Authenticity</u>	<u>Stipulation to Admissibility</u>
DX. 41	Video Recording of Segments of the 1986 Production of "Precious Sons"	Plaintiff reserves the right to object to this exhibit at the time of trial on relevancy grounds.	Yes	No
DX. 42	Oct. 3, 2017 E-mail chain between John Houseman and Evan Lowenstein (EL_00070)	Plaintiff reserves the right to object to this exhibit as confuses the issues, misleads the jury, and on complete context (FRE 106) grounds.	No	No
DX. 43	Image of Ed Harris carrying Anthony Rapp in Precious Sons (1986)	Plaintiff reserves the right to object to this exhibit on relevancy grounds, it confuses the issues, misleads the jury, and cumulative.	Yes	No
DX. 44	Anthony Rapp's Handwritten Drawing of Kevin Spacey's 1986 New York Apartment [Marked as <i>Depo. Ex. 26</i> at the Feb. 3, 2021 Deposition of Anthony Rapp]		Yes	Yes

V. General Provision, Stipulations and Objections with Respect to Exhibits:

See Chart above in Section IV.

VI. Plaintiff's Witness List¹:

Plaintiff may call at trial the following witnesses:

1. Anthony Rapp
2. Lisa Rocchio, Ph.D.
3. Justin Dawes (by deposition or in person)
4. Andrew Holtzman
5. Christopher Hart
6. Christopher Denny

¹ The attached Exhibit A includes (a) Mr. Rapp's deposition designations, (b) Mr. Fowler's objections to Mr. Rapp's designations and counter-designations, and (c) Mr. Rapp's objections to Mr. Fowler's counter-designations.

7. Sean Snow (by deposition or in person)
8. Plaintiff reserves the right to call or read in deposition testimony of Elizabeth Loftus, PhD (who appears on defendant's witness list)

VII. Defendant's Witnesses²:

Defendant may call at trial the following witnesses:

1. John Barrowman (by deposition)
2. Evan Lowenstein
3. Adam Rapp (by deposition or in person)
3. Adam Vary (by deposition)
4. Kevin Spacey Fowler
5. Dr. Alexander Bardey, MD
6. Elizabeth Loftus, PhD
7. Kathe Green (by deposition)
8. Michael Collins (by deposition)
9. Tracie Thoms (by deposition)
10. William Brown (if Justin Dawes is permitted to testify)
11. Erin Quill (by deposition or in person)
12. Mr. Fowler reserves the right to call Christopher Hart (who appears on Plaintiff's witness list) and any custodian or records capable of authenticating evidence for which there is an objection.

VIII. Relief Sought

² The attached Exhibit B includes (a) Mr. Fowler's deposition designations, (b) Mr. Rapp's objections to Mr. Fowler's designations and counter-designations, and (c) Mr. Fowler's objections to Mr. Rapp's counter-designations.

Mr. Rapp seeks compensation for both past and future mental suffering and emotional and psychological injuries. Mr. Rapp also seeks an award for punitive damages.

IT IS ORDERED.

Dated: _____

The Hon. Lewis A. Kaplan

Dated: March 4, 2022
New York, New York

Respectfully submitted,

/s/ *Peter J. Saghir*
Peter J. Saghir

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Counsel for Plaintiff Anthony Rapp

Dated: March 4, 2022
Irvine, California

Respectfully submitted,

/s/ *Chase A. Scolnick*

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*Counsel for Defendant Kevin Spacey Fowler
a/k/a Kevin Spacey*

CERTIFICATE OF SERVICE

In accordance with Local Rule 5.2, I, Peter J. Saghir, hereby certify that on March 4, 2022 this document filed through the ECF system will be sent electronically to the registered participants as identified in the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants.

/s/ *Peter J. Saghir*
Peter J. Saghir